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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,985	03/22/2004	Jack A. Parise	451590	8944

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SEYFARTH SHAW LLP
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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/804,985	Applicant(s) PARISE ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-20,23,24 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-20,23,24 and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17-20, 23, 24 & 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kadlecek et al., [U.S. Patent No. 5,443,311] in view of British publication 477,158 [known hereafter as GB'158] and further in view of Boesvert [U.S. Patent No. 5,245,801]. Kadlecek (figures 1-6) teaches the use of a tool cabinet (11) for securing tools, and a locker (45) suspended on and connected with the tool cabinet, the locker having an interior space in which objects (drawers for example) may be moved into and out of, and a side opening (opening for drawers) for providing access into the interior space. A tool may be associated with the object and the object may be moved into and out of the space as readily apparent to the examiner. Kadlecek teaches applicant's inventive steps as disclosed above, including providing rollers (17) on the cabinet; but Kadlecek does not show the locker as having an "open bottom" or show the object as being a cart or show a lockable door. GB'158 (figures 1-2) is cited as an evidence reference to show that a locker having an open bottom, a doorway, doors for closing the doorway and a cart to be moved in and out of the locker was known in the art. Accordingly, the position is taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the locker of Kadlecek with a locker having the characteristics provided by GB'158, since this arrangement would enhance the usage of Kadlecek's tool cabinet since the

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addition of the cart would increase functionality of the assembly due to the carts ability to be moved both as a unit with the cabinet and locker and individually depending upon the needs or application of the user. As to claim 20, the locker further includes a retractable shelf (broadly viewed as the bottom of 13 for example) and a storing device (broadly viewed as the side frame members of 13 for example) on the shelf, wherein the shelf with the device can be retracted when the doors are open. As to claim 28, a tool may be placed on the cart, the cart may be moved outside of the locker, and the cart may be housed in the interior space of the locker as readily apparent to the examiner. As to a lockable door, Kadlecek in view of GB`158 teaches applicant's inventive steps as noted above, but do not show a lock on a door for locking and unlocking purposes. Boesvert (figures 1-7) teaches the use of lock (fig. 5) for locking together doors of an open-bottom locker that encloses a cart (fig. 4). As such, the position is taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a lock to the prior art's assembly as taught by Boesvert because this arrangement would provide a means of restricting access to the cart to all but the authorized user when the cart is placed within the locker and the lock activated.

3. Claims 26 & 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kadlecek et al., in view of GB`158 and Boesvert, and further in view of Materna [U.S. Design 306,373]. The combined prior art teaches a means for securing tools removed from a lockable cabinet and placed on a rolling cart as claimed by applicant, but Kadlecek does not specifically show the means by which the locker is attached to the cabinet. Materna (figures 1-12) is cited as an evidence reference to show that it was known in the toolbox art to suspend a locker (fig. 2) from the side wall of a movable

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tool cabinet (fig. 1) via a hook-shaped flange (see top section of fig. 2) and as to claim 26, inherent fasteners capable of extending through openings in the side wall of the cabinet (note the openings at the bottom section of fig. 2 – that accept a fastener to secure the bottom section of fig. 2 to a side wall of the cabinet (fig. 1), and as to claim 30, fasteners (middle section of fig. 2) are extended through openings in a wall of the locker that secure the bracket to the locker which is secured to the wall of the cabinet thus securing the locker to the cabinet. Accordingly, the position is taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made to secure a locker to the cabinet of Kadlecek in view of Materna's teaching of such an assembly since this arrangement would securely seat a suspended locker to the side wall of the cabinet thereby forming a solid interconnected cabinet assembly.

Response to Arguments

4. Applicant's arguments filed January 2, 2007 have been fully considered but they are not persuasive. It is noted that the examiner has applied a new grounds of rejection on claims 26 & 30, wherein this is the basis for the issuance of another non-final rejection.

As to applicant's remarks concerning the combination of Kadlecek and GB'158, note the following: the examiner does not purport a modification of the locker so as to include an open bottom with an associated cart. Kadlecek is an evidence reference teaching that it was known in the cabinet art to suspend a locker from the side wall of a moveable cabinet. GB'158 is an evidence reference teaching that it was known in the cabinet art to have a locker with an open bottom that includes a door and a movable cart associated with the locker. Boesvert is only cited to show the known use

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of a lock or latch for locking a door closed on a cabinet structure. The examiner does assert that it would be obvious to one of ordinary skill in the art to substitute the locker of Kadlecek for a different locker structure depending upon the needs or usage as dictated by the user corresponding to the environment in which the structure will be employed. Accordingly, it is not required that the prior art disclose or suggest the properties newly-discovered by an applicant in order for there to be a prima facie case of obviousness. See *In re Dillon*, 919 F.2d 688, 16 USPQ2d 1897, 1905 (Fed. Cir. 1990). Moreover, as long as some motivation or suggestion to combine the references is provided by the prior art taken as a whole, the law does not require that the references be combined for the reasons contemplated by the inventor. See *In re Beattie*, 974 F.2d 1309, 24 USPQ2d 1040 (Fed. Cir. 1992); *In re Kronig*, 539 F.2d 1300, 190 USPQ 425 (CCPA 1976) and *In re Wilder*, 429 F.2d 447, 166 USPQ 545 (CCPA 1970). The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. *In re Keller*, 642 F. 2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). In this regard, a conclusion of obviousness may be based on common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference. *In re Bozek*, 416 F .2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969). As such, the substitution of Kadlecek's locker for the locker as disclosed by GB`158 would increase the functionality and versatility of the cabinet assembly thereby enhancing the usefulness of the structure as dependent upon the needs or preferences of the user.

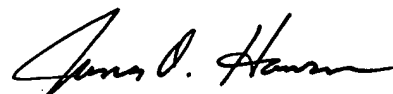
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
March 17, 2007